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No. 03-1342

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

DAIMLERCHRYSLER CORPORATION,
Petitioner,

v.

SHERYL YSBRAND AND MARY COONEY, Individually and on behalf of all others similarly situated,
Respondents.

On Petition for a Writ of Certiorari to the Oklahoma Supreme Court

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BRIEF OF THE STATE OF MICHIGAN AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF THE *AMICUS CURIAE*

Amicus curiae the State of Michigan has a significant interest in the development and potential extraterritorial application of laws enacted by its legislature and therefore has a significant interest in the second question presented in the petition. Based on their own local experiences, the 50 State legislatures have enacted their own laws to determine what sort of corporate behavior should be regulated and how consumers should be protected. At the same time, the 50 State supreme courts and lower courts have developed their own common law doctrines to address many of these same issues. This has resulted in a diversity of policies reflecting the unique experiences and expectations of each State in the country.

This diversity of law-making preferences represents one of the hallmarks of American government and one of the country's unique contributions to government in general—a system of government in which the Congress may regulate matters of national import and the States may regulate matters of local import. The Oklahoma Supreme Court adopted a rule of law that upsets that salutary framework. It held that an Oklahoma trial court should interpret and apply the laws of Michigan to one million contract-based claims of potential class members around the Nation against petitioners. That choice encroaches upon protections extended not only to the parties but also the several States, and has grave constitutional implications under both the Commerce Clause and basic principles of federalism.

Michigan remains proud of the laws enacted by its legislature. Those laws are a model of consumer protection, and Michigan believes they properly balance the rights and responsibilities of businesses and consumers. But those laws are just one model, and Michigan is but one State in the Union. Basic notions of comity and State sovereignty, articulated in numerous provisions of the United States Constitution, compel the conclusion that the courts of one State should not purport to override the local laws of all other States by applying that State's—or some other State's—laws to millions of separate transactions against a particular defendant in a single lawsuit. Accordingly, the State of Michigan respectfully submits this brief *amicus curiae* in support of Petitioners.

REASONS FOR GRANTING THE WRIT

This Court has repeatedly recognized "the Constitution's special concern both with the maintenance of a national economic union unfettered by state-imposed limitations on interstate commerce and with the autonomy of the individual States within their respective spheres." *Healy v. Beer*

Institute, 491 U.S. 324, 335-36 (1989) (footnotes omitted). The latter interest is the one the amici assert here; and that interest, the amici respectfully submit, is infringed by the judgment of the Supreme Court of Oklahoma in this case.

A. The Oklahoma Court's Judgment Conflicts With Basic Principles Of Federalism

1. This Court recently noted that "[a] basic principle of federalism is that each State may make its own reasoned judgment about what conduct is permitted or proscribed within its borders, and each State alone can determine what measure of punishment, if any, to impose on a defendant who acts within its jurisdiction." *State Farm Mutual Auto Insurance Co. v. Campbell,* 538 U.S. 408, 422 (2003). The converse is that no State may "impose its own policy choice on neighboring States." *BMW of North America v. Gore,* 517 U.S. 559, 571 (1996). Thus it is settled that "[n]o State can legislate except with reference to its own jurisdiction." *Bonaparte v. Tax Court,* 104 U.S. 592, 594 (1881); *see also New York Life Insurance Company v. Head,* 234 U.S. 149, 161 (1914) (recognizing "the constitutional barriers by which all the States are restricted within the orbits of their lawful authority and upon the preservation of which the Government under the Constitution depends"); *Bigelow v. Virginia,* 421 U.S. 809, 824 (1975) ("Virginia possessed no authority to regulate the services provided in New York").

The several States have in fact exercised their prerogative to make "reasoned judgment[s]," *Campbell,* 538 U.S. at 422, with respect to the very types of claims asserted here. As noted in the Petition, different States have adopted different rules with respect to, *inter alia,* the viability of "no injury" claims, the vertical privity requirement for warranty claims, and whether purchasers of used vehicles may assert implied warranty claims. *See* Petition at 22; *cf. Gore,* 517 U.S. at 570

(acknowledging "a patchwork of rules representing the diverse policy judgments of lawmakers in 50 States").

2. The judgment of the Oklahoma Supreme Court would negate these diverse policy choices by applying the law of one State to transactions that occurred in all 50. For example, the claims of a California class member, with respect to a vehicle that was advertised, purchased, and driven there, would be governed by the policy choices of Michigan law-makers, rather than the different choices of California ones. Thus, the result dictated by the Oklahoma Court disregards rather than "respect[s] the interests of other States[.]" *Id.* at 571.

The reasoning of the Oklahoma Court lays bare the Court's failure to grasp these principles. The Court asserted that "the basic policies of predictability and uniformity of result require that the issue of product defect be determined in one forum with one result rather than in 51 jurisdictions with the very real possibility of conflicting decisions." App. 14a. That litigation in different States might yield different results, of course, is indisputable; indeed, the very definition of a product defect often differs from State to State. *Compare, e.g., Delaney v. Deere and Co.*, 999 P.2d 930, 944 (Kan. 2000) (applying "consumer expectations" test for determining product defect); *Beacon Bowl Inc. v. Wisconsin Electric Power Company,* 501 N.W.2d 788, 792 (Wis. 1993) (same), *with Sperry-New Holland v. Prestage,* 617 So.2d 248, 256 (Miss. 1993) (applying "risk-utility" test); *Denny v. Ford Motor Co.,* 662 N.E.2d 730, 735-38 (N.Y. 1995) (same).

But those differences are hardly a problem to be remedied by a nationwide class action governed by the law of a single State; rather, they are a reflection of the federal design. "Differences across states may be costly for courts and litigants alike, but they are a fundamental aspect of our federal republic and must not be overridden in a quest to clear the queue in court." *In re Bridgestone/Firestone, Inc.,* 288

F.3d 1012, 1020 (7th Cir. 2002), *cert. denied sub nom Gustafson v. Bridgestone/Firestone, Inc.*, 537 U.S. 1105 (2003). The Oklahoma Court overlooked this basic principle of federalism in holding to the contrary.

B. The Oklahoma Court's Judgment Conflicts With The Commerce Clause

1. As interpreted by this Court, "the 'Commerce Clause precludes the application of a state statute to commerce that takes place wholly outside the State's borders, whether or not the commerce has effects within the State[.]'" *Healy*, 491 U.S. at 336 (ellipses omitted) (quoting *Edgar v. MITE Corp.*, 457 U.S. 624, 642-43 (1982) (plurality opinion)). Hence the Clause does not merely restrict State power, by proscribing "state-imposed limitations on interstate commerce[.]" *Healy*, 491 U.S. at 336. Instead, the Clause also *protects* "the autonomy of the individual States within their respective spheres[,]" *id.*, by proscribing interference by one State with another's purely intrastate affairs. This was a point lost on the Court below.

2. The judgment of the Oklahoma Court effects precisely the sort of extraterritorial interference forbidden by the Commerce Clause. As an initial matter, the Court's application of the law of a single State of its choosing to the claims of class members nationwide constitutes regulation of the transactions giving rise to those claims. For "State power may be exercised as much by a jury's application of a state rule of law in a civil lawsuit as by a statute." *Gore*, 517 U.S. at 559 n.17; *see also New York Times Co v. Sullivan*, 376 U.S. 254, 265 (1964) ("The test is not the form in which state power has been applied but, whatever the form, whether such power has in fact been exercised"); *San Diego Building Trades Council v. Garmon*, 359 U.S. 236, 247 (1959) ("[R]egulation can be as effectively exerted through an award of damages as through some form of preventive relief"). The

Oklahoma Court's decision to apply the law of a single State to transactions nationwide, therefore, constitutes regulation of those transactions as much as would an Oklahoma statute purporting to have the same jurisdictional sweep.

The Michigan Legislature's intent, even if it could be ascertained, concerning the extraterritorial application of its law is immaterial to the Commerce Clause analysis. State regulation of "commerce occurring wholly outside the boundaries of a State exceeds the inherent limits of the enacting State's authority and is invalid regardless of whether the statute's extraterritorial reach was intended by the legislature." *Healy,* 491 U.S. at 336. Instead, "[t]he critical inquiry is whether the practical effect of the regulation is to control conduct beyond the boundaries of the State." *Id.*

The judgment of the Oklahoma Court plainly has that effect here. By the exercise of Oklahoma State power, the judgment would apply the substantive law of the *Oklahoma* Court's choosing to transactions occurring entirely outside Oklahoma's borders, thereby frustrating the policy judgments of lawmakers in other States. The judgment thus intrudes upon the autonomy afforded other States by the Commerce Clause.

In summary, Chief Justice Marshall observed that "[n]o political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the American people into one common mass." *McCulloch v. Maryland,* 4 Wheat 316, 403 (1819). The Oklahoma Supreme Court has done precisely that with respect to the claims at issue here.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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